

the House in passing a resolution to constitute a committee to notify the President-elect and Vice-President-elect of their election.

The House, after two days' debate<sup>1</sup> and the presentation of various propositions, finally agreed to the resolution providing for a notification of the President-elect and Vice-President-elect of their election.

#### 1947. Proceedings at the electoral count of 1861.

The House empowered the Speaker to appoint the tellers for the electoral count of 1861.

On February 2, 1861,<sup>2</sup> the House authorized the appointment of a committee of five Members to join a similar committee on the part of the Senate "to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons chosen of their election."

On February 5<sup>3</sup> Mr. Lyman Trumbull, of Illinois, from the joint committee, reported in the Senate the following resolution, with the statement that it was the usual form adopted "since the foundation of the Government:"<sup>4</sup>

*Resolved*, That the two Houses will assemble in the Chamber of the House of Representatives on Wednesday, the 13th day of February, 1861, at 12 o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate and two on the part of the House of Representatives to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

On February 5, 1861,<sup>5</sup> the resolution was agreed to by the House, and on motion made from the floor the Speaker was empowered to appoint the tellers.<sup>6</sup>

The count took place under this resolution without unusual incident.<sup>7</sup>

#### 1948. Proceedings of the electoral count of 1865.

At the electoral count of 1865 the Vice-President, in deference to a provision of law, withheld from the joint meeting the returns from the States of Louisiana and Tennessee.

A motion was entertained in the joint meeting for the electoral count of 1865, but only for determination by the Houses separately.

It was held during the electoral count of 1865 that an objection to the vote of a State must be raised at the time of the reading of the certificate.

On February 6, 1865,<sup>8</sup> the House and Senate were in joint convention for counting the electoral vote under the terms of the recently framed Joint Rule 22.<sup>9</sup> The

<sup>1</sup> Journal, pp. 400-402, 405, 406; Globe, pp. 654-660, 672-675.

<sup>2</sup> Second session Thirty-sixth Congress, Journal, p. 260, 261; Globe, p. 715.

<sup>3</sup> Globe, p. 740.

<sup>4</sup> In reality, this form of resolution dated from 1837, 1841 and 1849. The resolution of 1845 differed in several respects. See section 1943 of this work.

<sup>5</sup> Journal, pp. 273, 274; Globe, pp. 756, 757.

<sup>6</sup> The Journal does not record the motion that the Speaker be authorized to appoint. The Globe has it as made by Mr. Elihu B. Washburne, of Illinois.

<sup>7</sup> Journal, p. 310; Globe, p. 894.

<sup>8</sup> Second session Thirty-eighth Congress, Globe, pp. 668, 669.

<sup>9</sup> For terms of this joint rule see section 1951 (footnote) of this work. Electoral count of 1873.

Vice-President<sup>1</sup> having concluded the opening and presentation of returns, announced in response to an inquiry by Senator Edgar Cowan, of Pennsylvania, that he had in his possession returns from the States of Louisiana and Tennessee, but in obedience to the law the Chair held it to be his duty not to submit them to the joint convention. This law<sup>2</sup> was in the form of a joint resolution, and, while the official communication of the President's approval had not been received, the Chair had been apprised of the fact.

Mr. George H. Yeaman, of Kentucky, moved that all the returns before the joint convention be opened and presented for its consideration.

The Chair held that the motion was in order, being pertinent to the object for which the convention had assembled. It came within the latter clause of the joint resolution, which related to "any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner." The Member would reduce his motion to writing, so that the precise question should be in possession of the Senate when it should retire for the determination of the question presented for the consideration of the convention. Each House must determine the question in its own Chamber.

Mr. Nathan A. Farwell, of Maine, a Senator, raised the question of order that the question had already been decided by the two Houses of Congress in passing the joint resolution, which had been approved by the President.

The Vice-President said:

The fact of the approval of the President is within the knowledge of the Chair, and in consequence of that knowledge the Chair has seen fit to withhold the returns of the States in question. There has been no official promulgation of that approval of the President. Still, in the opinion of the Chair, if either branch of Congress shall be disposed to order the returns now upon the table to be read, it is within their power to do so. The reading of the returns would be one thing; then would arise another question, whether the vote in the return so read should be added to the count of the tellers. In the opinion of the Chair the motion of the Member from Kentucky is in order.

Mr. Yeaman withdrew his motion.

Mr. John V. L. Pruyn, of New York, proposed a motion that the tellers be instructed not to count the votes of the so-called State of West Virginia.

The Vice-President quoted the rule as follows:

If upon the reading of any such certificate by the tellers, any question shall arise as to the counting of the votes therein certified, etc.,

said:

The question must be raised when the vote is announced. \* \* \* The Member from New York should have made his motion, in order to come within the rule, at the time the tellers announced the vote of the State of West Virginia.

#### 1949. Proceedings of the electoral count of 1869.

The President pro tempore held, during the electoral count of 1869, that under the terms of the then existing joint rule an objection to the counting of an electoral vote should be in writing and specific.

During the electoral count of 1869 the President pro tempore used his discretion about entertaining points of order, but declined absolutely to entertain appeals.

<sup>1</sup> Hannibal Hamlin, of Maine, Vice-President.

<sup>2</sup> 13 Stat. L., pp. 567, 568.